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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/604,546

07/30/2003

Yu-Hung Sun

66107-001

1545

65358

7590

11/30/2007

WPAT, PC

7225 BEVERLY ST.

ANNANDALE, VA 22003

EXAMINER

DINH, TAN X

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

11/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/604,546

**Applicant(s)**

SUN ET AL.

**Examiner**

TAN X. DINH

**Art Unit**

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1) The amendment filed 9/21/2007 is acknowledged. Claims 9,10 and 12-18 have been canceled.

2) Claims 8 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase " a time duration " ( claim 8, line 2 ) is unclear and cannot be understood. Is this " time duration " indicated to second time duration ?.

Claim(s) 11 incorporate the indefiniteness of claim(s) 8 by virtue of their dependency thereon.

3) Claims 8 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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The original specification fails to specify that " if said optical disk pickup head hits a spindle motor during said first time duration ", " if said optical disk pickup head hits a spindle motor during said second time duration ", " if said optical disk pickup head hits a spindle motor during said first time duration " ( claim 8 and 11 ). These features are considered to be new matter.

4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

5) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7) Claims 8 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by HONG et al ( 7,193,935 ).

HONG et al discloses a method for moving optical pick-up to an

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initial position at as claimed in claims *8 and 11* without using a sensor or limiting switch by decreasing the speed of the optical pick-up and stopping the optical pick-up at initial position ( see the abstract, column 1, line 15 to column 2, line 67. In this case, the number of driving pulses at initial position is set, the optical pick-up is controlled by numbers of driving pulses and stopped at initial position without using sensors or limiting switch, after stop at initial position at first time duration the controller terminates the further moving steps ).

7) Claims *8 and 11* are further rejected under 35 U.S.C. 102(b) as being anticipated by OKADA et al ( 6,249,495 ).

OKADA et al discloses a method for moving optical pick-up to an initial position at as claimed in claims *8 and 11* without using a sensor or limiting switch by decreasing the speed of the optical pick-up and stopping the optical pick-up at initial position ( see column 1, lines 5-31. In this case, the stepping motor is controlled by stepping angle  $n$  greater than 2 ).

8) Applicant's arguments with respect to claims *8 and 11* have been considered but are moot in view of the new ground(s) of rejection.

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The initial position (home-in position) is not at the place where the optical pick-up hits the spindle motor. The specification did not teach this feature since if the optical pick-up hits the spindle motor every time power ON then optical pick-up and spindle motor will be severed damage and not last long. The initial position is normally located at inner position of the optical disc where the optical pick-up can read the information of TOC. For that reasons the rejection of new matter is repeated herein.

9) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims ( if the rejection involves with any applicable arts ), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form PTO-892 is attached herein.

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner TAN Xuan DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 8:30AM to 5:30PM.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TAN DINH**  
**PRIMARY EXAMINER**

November 28, 2007